

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 4:18 p.m. on Thursday, September 28, 2000 with Chair William Gaines, Jr. presiding. The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, Richard Hoiekvam, George Klein, William Nuckolls, Michelle Thornburg and Kathleen Smith. Also present was Executive Director, Annette Harmon. The meeting was held at the Board's office at 140 North 8th Street, Suite 290, Lincoln, Nebraska.

B. Approval of meeting agenda for September 28-29, 2000. Moved by Hoiekvam, seconded by Graf, to approve the agenda for the September 28-29, 2000 meeting as written. On roll call vote, all members present voted aye. Motion number 1 carried.

C. Approval of the minutes of the July 17-18, 2000 Board meeting. Moved by Smith, seconded by Nuckolls, to approve the minutes as written. On roll call vote, all members present voted aye. Motion number 2 carried.

2. Consent Agenda

Approval of Consent Agenda by Roll Call Vote. Moved by Smith, seconded by Graf, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 3 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

B. Review of Board Budget Status Report. The Board reviewed the August 31, 2000 Budget Status Report.

C. Approval of June, July and August 2000 disbursements. The Board reviewed and approved the June, July and August 2000 disbursements.

D. Requests for Acceptance of Surrendered Certificates and Approval of Inactive-Retired Classification. The Board accepted the voluntary surrender of the CPA Certificate of Gary Strohm (#6406) and Catherine Halloran (#5184).

E. Office Management Report. The Board reviewed a report on permits and registrations issued as of September 1, 2000. Prior year's statistics were also reviewed for comparison.

F. Annual Fixed Assets Report. The Board reviewed and approved an annual listing of changes in fixed assets as of June 30, 2000.

4. Discussion on Items from "Advance" - Topics Continued

The Board recapped its discussion from the last meeting on the Uniform Accountancy Act. Issues that were ancillary to that discussion were "parked" at the July meeting and were discussed at this meeting. Those issues included placing the authority for the Quality Enhancement Program (QEP) in

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

statute, substantial equivalency, Code of Conduct, and Continuing Professional Education (CPE). A proposed action plan for a possible re-write was discussed. The Board will consider further issues at its next meeting.

The Board recessed at 7:25 p.m. for the day.

The Board reconvened at 8:29 a.m. on Friday, September 29, 2000.

The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, Richard Hoiekvam, George Klein, William Nuckolls, Kathleen Smith, and Michelle Thornburg. Also present was Executive Director, Annette Harmon.

5. New Business

A. Future Meeting Dates. The next regularly scheduled Board meetings are November 16-17, 2000 in Lincoln, January 19, 2001 in Norfolk, April 22-23, June 18-19 and September 20-21, 2001 in Lincoln.

B. NASBA.

1. Report on Attendance at NASBA Regional Communications Forum. The National Association of State Boards of Accountancy (NASBA) held a Regional Communications Forum on August 24, 2000 in Minneapolis, Minnesota. Executive Director Annette Harmon attended as the Administrative Liaison for the Region and Member Graf attended as the Board's Vice Chair.

2. Items from the Annual Meeting in Boston, MA. Members Hoiekvam, Gaines, Graf, Kavich, Smith, and Nuckolls attended the NASBA Annual Meeting in Boston, Massachusetts, along with the Executive Director, September 17-20, 2000. The Board discussed the AICPA's proposed "Cognitor" designation, nominations for NASBA's Board of Directors and Regional Directors, Regional Directors' Focus Questions, and the Discussion Memorandum on Alternative Practice Structures. Moved by Kavich, seconded by Graf, to send forth a nomination of Kathy Smith for Regional Director to NASBA. On roll call vote, all members present voted aye. Motion number 4 carried. Moved by Hoiekvam, seconded by Nuckolls, to approve a resolution to support the concept of maintaining the independence standard regarding a single entity concept approach. On roll call vote, all members present voted aye. Motion number 5 carried.

C. Review of Fee Schedule. The Board reviewed the current fee schedule and projected receipts for the next biennium. Moved by Smith, seconded by Hoiekvam, to increase the CPA and PA active permit to \$200 and the CPA and PA inactive fee to \$80 effective July 1, 2001. On roll call vote, all members present voted aye. Motion number 6 carried.

D. Election of Officers. Votes for the positions of Chair, Vice Chair and Secretary were made by secret ballot. Dean Graf was elected to Chair with six votes. Dick Hoiekvam received one vote for Chair and there was one abstention. Bill Gaines was elected to Vice Chair with six votes. Nina

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

Kavich received one vote for Vice Chair and there was one abstention. Bill Nuckolls was elected to Secretary with five votes. George Klein and Nina Kavich each received one vote for Secretary and there was one abstention. The Board determined that the term of the new officers would commence October 1, 2000.

E. Resolution for Former Member Luke Aldy. Moved by Smith, seconded by Nuckolls, to adopt the resolution of gratitude for service by retiring Board Member, Luke M. Aldy. On roll call vote, all members present voted aye. Motion number 7 carried.

F. Report on Board Audit. The Auditor of Public Accounts performed an audit of the Board for the fiscal year ending June 30, 2000. The audit report will be issued without comment and should be available for distribution to Board members within a few weeks. Moved by Graf, seconded by Smith, to establish a policy for all staff (labor contract employees would be subject to a review by Employee Relations) to take five consecutive working days of vacation each calendar year. On roll call vote, all members present voted aye. Motion number 8 carried. Moved by Kavich, seconded by Graf, to allow the Executive Director, Annette L. Harmon, CM, to take the extra vacation time accumulated within the first six months of 2001 (prior to June 30, 2001) if it cannot be taken before December 31, 2000. On roll call vote, all members present voted aye, except for Member Klein who voted nay. Motion number 9 carried.

G. Review of Expense Reimbursement & Travel Policies. The Board reviewed its current policies on travel and expense reimbursement and also reviewed DAS/NAS guidelines.

5. Educational Advisory Committee

A. Report from the Chair. Nina Kavich, Committee Chair, reported that the initial applications to sit for the November 2000 Uniform CPA Examination had been reviewed on an on-going basis and there were only a few rejections. At the same time, the programs of suggested coursework meeting the 150-hour subject requirements had been reviewed for all colleges and universities that had submitted them to the office. The Educational Requirements Guidelines have been shared with them with a request to pass them on to all their advisors and students.

6. Report of Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Moved by Hoiekvam, with the Committee's recommendation, to approve the Statistical Summary Report of Programs (that gives statistics of course denials, approvals and reconsideration requests) that have been evaluated and approved by the CPE Committee since the last meeting. On roll call vote, all members present voted aye. Motion number 10 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

7. Report of Quality Enhancement Program (QEP)

A. Report of 2000 Review Process/Recommendation of Ratings by Committee. Dean Graf, Chair of the Board's Quality Enhancement Program Committee, reported on the Committee's August 23, 2000 meeting. Moved by Graf, seconded by Smith, to adopt all the Committee's recommendations for action on each practice unit's reports and suggestions for a Team Captain checklist and improvements in the QEP process. On roll call vote, all members present voted aye. Motion number 11 carried.

8. Report of Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Graf, with the Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity, with the exception of the permit to practice #5100 issued August 14, 2000 to Lanette R. Green (Certificate #6331). On roll call vote, all members present voted aye. Motion number 12 carried.

B. Application(s) for Reinstatement to Active Permit. Moved by Graf, with the Committee's recommendation, to approve the applications for Reinstatement to Active Permits. On roll call vote, all members present voted aye. Motion number 13 carried.

C. Report on Licensure Process/ Stipulation & Consent Orders. The Board reviewed the list of individuals and firms that had signed Stipulation and Consent Orders and had been issued current permits for the current licensure. No action was necessary.

D. Firm Ownership. The Board reviewed the Public Accountancy Act and Title 288, sections 1-162.01 and Chapter 11 in particular, and the receipt of requested information from the Attorney General's office. In compliance with the above sections and the formal Attorney General's opinion, it was determined that non-natural owners of CPA firms are prohibited. Moved by Graf, with the Committee's recommendation, that firms with non-natural owners be given notice that they are to change their ownership to comply with the above sections within sixty (60) days of receiving notice. On roll call vote, all members present voted aye. Motion number 14 carried.

E. Office and Workspace Guidelines. Moved by Graf, with the Committee's recommendation, to postpone further discussion of this item until the next meeting. On roll call vote, all members present voted aye. Motion number 15 carried.

F. Experience Requirement Request. Moved by Graf, with the Committee's recommendation, that Lanette R. Green's Certificate of Public Accounting Experience be rejected due to the fact that her employer for the time period was not a registered, licensed CPA firm; and that permit to practice

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

#5100 issued August 14, 2000 be rescinded for falsely stating on her application for an Initial Permit to Practice that her employer was a CPA firm. After discussion, the Motion was withdrawn.

Moved Smith, seconded by Kavich, to inform Ms. Green that information has been received by the Board subsequent to the filing of her application for an Initial Permit that requires further review and clarification before final approval of the permit by the Board. The Board requests that she provide in the next thirty (30) days: Employment contracts she has between herself and her employer for time period 12/7/1997 to 6/29/2000; contracts during the same time period between BA Business Services and Blackman & Associates, P.C.; time and billing information that would show the number of hours worked under each entity; copy of her W-2's; who was her immediate supervisor in each entity; and any other information that would be beneficial to the Board. On roll call vote, all members present voted aye. Motion number 16 carried.

CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Thornburg, that the Board go into closed session at 1:24 p.m. for the purpose of enforcement. On roll call vote, all members present voted aye. Motion number 17 carried.

Assistant Attorney General, Lynn Melson, met with the Board regarding issues being represented for the Board by the Attorney General's office.

Return to Open Meeting. Moved by Smith, seconded by Graf, that the Board return to open session at 2:58 p.m. On roll call vote, all members present voted aye. Motion number 18 carried.

8. Report of Examination & Licensing Committee

G. Revisions for Security & Proctoring Procedures for May 2001 CPA Exam. NASBA's Examination Administration Security Task Force (EASTF) has proposed certain procedures to provide more security for the administration of the Uniform CPA examination on a national basis. Moved by Graf, with the Committee's recommendation, to approve the recommendations for changes to the security and proctoring procedures for the May 2001 CPA exam as presented, with the exception of hiring an on-duty peace officer. On roll call vote, all members present voted aye. Motion number 19 carried.

Moved by Graf, seconded by Nuckolls, to provide the pencils and erasers for candidates at the May 2001 CPA exam and to notify candidates that they will not be allowed to bring their own pencils, pens and highlighters. On roll call vote, all members present voted aye. Motion number 20 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

H. Report on Applications for November 2000 CPA Exam. The Board reviewed a list of initial applicants for the November 2000 CPA Exam, including those that were denied as not meeting the requirement.

9. Report of Enforcement of Professional Conduct Committee

A. Complaint Consent Agenda. Moved by Smith, with the Committee's recommendation, to approve the Complaint Consent Agenda, including the Complaint Status Log. On roll call vote, all members present voted aye. Motion number 21 carried.

B. Findings of Fact/Conclusions of Law for Gerard Forget: Complaint #99-07. Moved by Smith, seconded by Graf, to postpone this item until the Board's next regularly scheduled meeting. On roll call vote, all members present voted aye. Motion number 22 carried.

C. Complaint #00-03 Violation of Auditing Standards. The staff will follow-up with information needed regarding a peer review of the Respondent firm and report back to the Committee.

D. Complaint #00-04 Felony Conviction: Attempted First Degree Sexual Assault of a Child. Moved by Smith, seconded by Graf, to find probable cause exists and to file a formal complaint and Notice of Hearing for the next meeting against Jeffrey L. Benne, alleging violations of the Public Accountancy Act, Sections 1-112 and 1-137 (4) Violation of a rule of professional conduct adopted and promulgated by the board under the authority granted by the act, and 1-137 (5) Conviction of a felony under the laws of any state or of the United States; and Chapter 5 of Title 288 of the Revised & Substituted Rules of the Board: Section 007.01 Acts Discreditable; that direction be given to Legal Counsel and Board staff that the Board would consider entering into a Stipulation and Consent Order with Mr. Benne that he did violate the applicable regulations and statutes, and that the Board would consent to disposition of the complaint with his agreement of the Board's revocation of his Nebraska CPA certificate number 5777. He must sign and return the Stipulation and Consent Order within two weeks of receiving it for the Board to agree to it. On roll call vote, all members present voted aye. Motion number 23 carried.

E. Complaint #00-05 Failure to Follow Auditing Standards. The Board directed further investigation of the complaint.

F. Complaint #00-06 Acts Discreditable to the Profession and Failure to Follow GAAP. The Board directed staff to contact the Respondent informing him that a Litigation Monitoring Consent Order is required or processing of the complaint would be continued.

G. Complaint #00-07 Violation of Independence Standards. The Board directed further investigation of the complaint.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

H. Complaint #00-08 Firm has failed to sign Litigation Monitoring Consent Order. The Board is waiting for copies of settlement agreement in the Litigation. No action necessary.

I. Request for Continuance of Formal Hearing: Rodney Zwygart. Moved by Smith, with the Committee's recommendation, to continue the formal hearing for Rodney Zwygart until November 16, 2000 at 1:00 p.m. On roll call vote, all members present voted aye. Motion number 24 carried.

J. Complaint #00-09 Acts Reflecting Adversely on Fitness to Practice. The Board directed staff to write the complainant requesting he provide specific allegations and documentation of acts of wrong doing and how the CPA has taken advantage of his status of Personal Representative.

K. Complaint #00-10 Competency/ Technical Standards. The Board directed further investigation of the complaint.

L. Request for Declaratory Order on Office Space. Moved by Smith, seconded by Hoiekvam, that the Board respond to the Petition for Declaratory Order from Hanigan Bjorkman Ecklund LLP, CPAs that, based upon the facts they have presented, the proposed Clearwater, Nebraska location would be in violation of the registered office rules and work space rules. The reasons relied upon by the Board in support of its conclusion are: 1) the location as proposed is to be permanent and is intended to be open and staffed on a full time basis and would therefore fall within the definition of an "office" as defined in Title 288, Section 001.01; 2) Title 288, Sections 002.02 and 002.03 require the "registered manager" to provide direct supervision of the office staff and the proposed supervision does not meet that required in the rule; 3) Title 288, Section 001.03 defines a "work space" as a temporary location and Section 004.01E provides that the practice of public accountancy in a "work space" may be done only on a part time basis. The facts establish that this location is intended to be permanent and open on a full time basis; and 4) the Board has not been granted the authority to waive the advertising restrictions on "work spaces" nor does it believe it would be in the "public interest" to do so. On roll call vote, all members present voted aye. Motion number 25 carried.

M. Request for Declaratory Order on Affiliate Business to CPA Firm. Moved by Smith, seconded by Thornburg, that the Board respond to the firm regarding their Petition for a Declaratory Order that, based upon the facts presented to us, the proposed new firm would be in violation of Title 288, Revised and Substituted Rules of the Board, Chapter 11, Section 002 Form of Practice and Name. The facts presented show that financial services would be performed by a CPA and the proposed insurance agency, a non-licensed CPA firm, and the Board would deem that to be the practice of public accountancy. In conclusion, you cannot have the practice of public accountancy by a CPA through a non-licensed entity. On roll call vote, all members present voted aye. Motion number 26 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

September 28-29, 2000

11. Adjournment

It was moved by Smith, seconded by Nuckolls, that the Board adjourn at 3:33 p.m. On roll call vote, all members present voted aye. Motion number 27 carried.

Submitted by,

Nina B. Kavich, CPA
Secretary